



THE CITY OF NEW YORK
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November 22, 2022

VIA ECF

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

MEMORANDUM ENDORSED

Re: *Holmes v. Trapasso, et al.*, 21-CV-10628 (VEC)(GWG)

Your Honor:

I am a Senior Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and I am writing on behalf of the Office of Corporation Counsel as an interested party in the above referenced matter. Interested party Office of the Corporation Counsel writes to respectfully request that the Court, *sua sponte*, grant an enlargement of time to December 23, 2022 for defendants Amanda Vanwieren-Johnson, James Trapasso, and Ralph Pena ("individual defendants") to answer or otherwise respond to the Amended Complaint. This is the third request for an extension for the individually named defendants to respond to the Amended Complaint and plaintiff counsel consents to this request.

By way of background, Plaintiff brings this action, pursuant to 42 U.S.C. §1983, against defendants Vanwieren-Johnson, Trapasso, and Pena, alleging claims of malicious prosecution and denial of the right to a fair trial stemming from his arrest on or about November 23, 2010. *See Amended Complaint (ECF No. 10)* at 4. Plaintiff further alleges that, on or about September 14, 2021, all criminal charges against him were dismissed and the prosecution was terminated in his favor. *See id.*

As to the procedural history, Corporation Counsel's prior enlargement requests for defendant Vanwieren-Johnson, ECF No. 21, and for defendants Trapasso and Pena, ECF No. 30, were granted enlarging the time for defendants to answer or otherwise respond to the Amended Complaint to October 24, 2022. *Id.* A subsequent request was granted enlarging the time to November 23, 2022. *ECF No. 39.*

The enlargement requested herein will afford defendants additional time to investigate the underlying criminal matter that was alleged to be dismissed, including Plaintiff's incarceration status, and to consider the viability of a motion to dismiss. Upon information and belief, based upon the New York State Department of Corrections Incarcerated Lookup, Plaintiff continues to be incarcerated even after the alleged September 14, 2021 dismissal of criminal charges referenced in the Amended Complaint. *ECF No. 10*. Further, although the undersigned is in receipt of documentation needed to resolve representation, additional time is needed to determine representation and to meet with the above-mentioned defendants.

Therefore, for the reasons stated above, it is respectfully requested that the Court, *sua sponte*, grant an enlargement of time to December 23, 2022 for defendants Vanwieren-Johnson, Trapasso, and Pena to answer or otherwise respond to the Amended Complaint.

Thank you for your consideration of the instant application.

Respectfully submitted,

/s/ Thomas Lai

Thomas Lai

Senior Counsel

Special Federal Litigation Division

To: **VIA ECF**
Edward Sivin
Attorney for Plaintiff

The deadline for defendants Vanwieren-Johnson, Trapasso, and Pena to answer or otherwise respond to the Amended Complaint is extended to December 23, 2022. There will be no further extensions absent a sworn statement from an individual or individuals with personal knowledge giving a detailed statement as to what efforts were undertaken to comply with this deadline and why additional time is required.

So Ordered.



GABRIEL W. CORENSTEIN
United States Magistrate Judge

November 28, 2022